

## Internal Revenue Service

Department of the Treasury  
Washington, DC 20224

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Person To Contact:  
 , ID No.

Telephone Number:

Refer Reply To:  
CC:CORP:2  
PLR-126592-19

Date:  
April 16, 2020

### Legend

Parent =

Date 1 =

Company Official =

Tax Professional =

Dear :

This letter responds to a letter dated October 8, 2019, submitted on behalf of Parent, requesting extensions of time under §§301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations to file two elections. In particular, Parent is requesting: (1) an extension of time for Parent and the members of its affiliated group (the "Parent Group") to make an election under §1.1502-75(a)(1) of the Income Tax Regulations to file a consolidated federal income tax return, with Parent as the common parent, for the taxable year ending on Date 1, and (2) an extension of time to make an election under §1.263(a)-1(f) to apply the de minimis safe harbor for capital expenditures for the taxable year ending on Date 1 (the "Elections"). Additional information was submitted subsequently. The material information submitted for consideration is summarized below.

Parent was a domestic corporation that was the common parent of an affiliated group of corporations for the taxable year ending on Date 1. An election for the Parent Group to file a consolidated income tax return, with Parent as the common parent, for the taxable year ending on Date 1 was due on the last day prescribed by law (including extensions of time) for the filing of Parent's return. Similarly, an annual election by Parent for any of the members of the Parent Group to apply the de minimis safe harbor for capital expenditures for the taxable year ending on Date 1 was due on the last day prescribed by law for the filing of Parent's return.

For various reasons, valid Elections were not filed by the due date of Parent's return for the taxable year ending on Date 1. Subsequently, a request was submitted under §301.9100-3 for extensions of time to file the Elections. The period of limitations on assessment under section 6501(a) of the Internal Revenue Code (Code) has not expired for the taxable year ending on Date 1 or any subsequent taxable year. Parent has represented that it is not attempting to alter a return position taken for which an accuracy-related penalty has been or could be imposed under section 6662 of the Code.

Under §301.9100-1(c), the Commissioner has discretion to grant a reasonable extension of time to make a regulatory election, or a statutory election (but no more than six months except in the case of a taxpayer who is abroad), under all subtitles of the Code except subtitles E, G, H, and I.

Sections 301.9100-1 through 301.9100-3 provide the standards the Commissioner will use to determine whether to grant an extension of time to make a regulatory election. Section 301.9100-1(a). Section 301.9100-2 provides automatic extensions of time for making certain elections. Requests for relief under §301.9100-3 will be granted when the taxpayer provides evidence to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and that granting relief will not prejudice the interests of the government. Section 301.9100-3(a).

The times for filing the Elections are fixed by the regulations (i.e., §1.1502-75(a)(1) and §1.263(a)-1(f)). Therefore, the Commissioner has discretionary authority under §301.9100-3 to grant extensions of time for Parent to file the Elections, provided Parent shows it acted reasonably and in good faith, the requirements of §§301.9100-1 and 301.9100-3 are satisfied, and granting relief will not prejudice the interests of the government.

Information, affidavits, and representations submitted by Parent, Company Official, and Tax Professional explain the circumstances that resulted in the failure to timely file the Elections. The information establishes that the request for relief was filed before the failure to make the Elections was discovered by the Internal Revenue Service. See §301.9100-3(b)(1)(i).

Based on the facts and information submitted, including the representations made, we conclude that Parent has shown it acted reasonably and in good faith, the requirements of §§301.9100-1 and 301.9100-3 are satisfied, and granting relief will not prejudice the interests of the government. Accordingly, provided that the Parent Group qualifies substantively to file a consolidated return for the applicable tax year and to make the de minimis safe harbor election, and that the statute of limitations is still open for the taxable year ending on Date 1 and all subsequent years, an extension of time is granted under §301.9100-3, until 90 days from the date on this letter, for Parent to file the Elections (by (1) filing a consolidated return, with Parent as the common parent, and attaching a Form 1122 for each subsidiary which was a member of the Parent Group for the taxable year ending on Date 1, and (2) attaching to the return the statement described in §1.263(a)-1(f)(5)). Parent must attach a copy of this ruling letter to such return, or if the return is filed electronically, a statement must be attached to the return that provides the date on, and the control number (PLR-126592-19) of, this ruling letter.

The above extension of time is conditioned on the Parent Group's tax liability (if any) being not lower, in the aggregate, for all years to which the Elections apply, than it would have been if the Elections had been timely made (taking into account the time value of money). No opinion is expressed as to the Parent Group's tax liability for the years involved. A determination thereof will be made by the applicable Director's office upon audit of the federal income tax returns involved.

We express no opinion with respect to whether the Parent Group qualifies substantively to file a consolidated return or whether any member of the Parent Group is entitled to elect to apply the de minimis safe harbor. In addition, we express no opinion as to the tax effects or consequences of filing the return or the Elections late under the provisions of any other section of the Code or regulations, or as to the tax treatment of any conditions existing at the time of, or effects resulting from, filing the Elections late that are not specifically set forth in the above ruling.

For the purposes of granting relief under §301.9100-3, we relied on certain statements and representations made by Parent, Company Official, and Tax Professional. However, the Director should verify all essential facts. In addition, notwithstanding that extensions are granted under §301.9100-3 to file the Elections, penalties and interest that would otherwise be applicable, if any, continue to apply.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, copies of this letter are being sent to your authorized representatives.

Sincerely,

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Thomas I. Russell  
Chief, Branch 1  
Office of Associate Chief Counsel (Corporate)

cc: